

Message Text

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ACTION AF-18

INFO OCT-01 ISO-00 OPIC-12 L-03 SS-20 NSC-07 SP-03 OMB-01

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FM AMEMBASSY LAGOS

TO SECSTATE WASHDC PRIORITY 3599

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E.O. 11652: N/A

TAGS: EFIN, NI

SUBJECT: OPIC AGREEMENT

REFS: STATE 69968, LAGOS 2906

1. ON APRIL 18 I CALLED ON MINISTRY OF INDUSTRIES PERMANENT SECRETARY ALHAJI A. L. CIROMA, WHO HAD JUST RETURNED TO HIS OFFICE AFTER AN ABSENCE OF ONE WEEK AND REQUESTED THIS "EARLIEST CONVENIENCE" MEETING.

2. FINDING CIROMA IN GOOD HUMOR AND "EAGER TO OVERCOME THE UNWARRANTED DELAYS ON BOTH OUR SIDES," I EXPLAINED THAT I HAD BEEN AUTHORIZED TO SIGN THE OPIC AGREEMENT BUT THAT, AT THE TIME OF SIGNING OR BEFORE, DEPENDING ON HIS PREFERENCE, I SHOULD LIKE TO PRESENT IN THE FORM OF AN AGREED MINUTE A SUGGESTED CLARIFICATION OF TWO ARTICLES IN THE AGREEMENT WHICH ARE OBVIOUSLY IMPORTANT TO THE FMG AND NO LESS SO THE USG AS WE BOTH SEEK TO EXPAND INVESTMENTS IN NIGERIA. I PRESENTED THE TEXT OF THE PROPOSED AGREED MINUTE AND EMPHASIZED THAT THE LANGUAGE IS NOT INFLEXIBLE. I FURTHER EXPLAINED THAT IDEALLY THE AGREEMENT ITSELF WOULD NEED NO CLARIFICATION BUT THAT WE HAD NO DESIRE, AFTER THE PROTRACTED DELAYS, TO SEEK AN AMENDMENT AT THIS POINT. NEVERTHELESS, SINCE ARTICLES 6 AND 7 AT LEAST LACK PRISTINE CLARITY, ALL INTERESTS ARE BEST SERVED BY SOME FORM OF

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CLARIFICATION TO WHICH BOTH GOVERNMENTS CONCUR.

3. CIROMA READ THE TEXT OF THE AGREED MINUTE, GAVE FORTH A LITTLE BANTER ABOUT HIS BEING A SIMPLE CIVIL SERVANT CAUGHT UP IN THE "LEGALITIES OF HIGH INTERNATIONAL RELATIONS," THEN STATED, SPEAKING PERSONALLY AND EMPHATICALLY AS A LEGAL LAYMAN: (1) THE TEXT SEEMED "QUITE ACCEPTABLE"; (2) ANY AGREED MINUTE IS WORTHLESS, HOWEVER, BECAUSE IT IS NOT BINDING; (3) IF THE USG INSISTS ON FURTHER CLARIFICATION OR INTERPRETATION, IT CAN ONLY ACHIEVE THIS END BY "RENEGOTIATING THE LANGUAGE OF THE AGREEMENT ITSELF BECAUSE NO OTHER LANGUAGE IS BINDING ON EITHER SIDE"; (4) TO HIS NON-LEGAL MIND, ARTICLE 7 WOULD SEEM TO "GUARANTEE WHATEVER IT IS YOU ARE SEEKING BY THE SO-CALLED AGREED MINUTE"; (5) BUT AS "A SIMPLE INNOCENT BYSTANDER" HE MUST REFER THE AGREED MINUTE TO THE DEPARTMENT OF JUSTICE AND RESPECTFULLY REQUEST JUSTICE'S EXPEDITIOUS ACTION.

4. I REMINDED CIROMA THAT WHILE HE MAY NOT BE A LAWYER, HE DESPITE HIS MODESTY IS HARDLY A BYSTANDER; THAT HE PLAYED AN IMPORTANT ROLE IN ACHIEVING THE OBJECTIVE WHICH WE ALL SEEK; AND THAT I HOPED HE WOULD NOT SIMPLY PASS A PIECE OF PAPER TO JUSTICE. I ALSO POINTED OUT THAT HIS ACCOUNT OF POINT (3) ABOVE IS NOT A PRECISE STATEMENT OF REALITIES, SINCE HIS OWN OFFICE HAD DONE MUCH UNILATERAL NEGOTIATING IN 1972, RESULTING IN THE LESS THAN SATISFACTORY WORDING OF ARTICLES 6 AND 7.

5. HE ACCEPTED MY REPLY WITHOUT COMMENT AND PROMISED TO "WORK HARD ON JUSTICE SO THEY WON'T GO TO SLEEP." I REMINDED HIM THAT APPROXIMATELY TWENTY INVESTORS, SOME OLD AND SOME NEW, HAVE CONTACTED OPIC AND INDICATED A DESIRE TO INVEST IN NIGERIA IF THE BILATERAL AGREEMENT IS CONCLUDED.

6. COMMENT: THIS IS ABOUT THE REACTION WHICH I ANTICIPATED, THOUGH (1) ABOVE SHOWS THAT CIROMA AT LEAST IS NOT HOSTILE TO THE CLARIFICATION. HIS (2) AND (3) ALMOST CERTAINLY FORECAST JUSTICE'S POSITION. HIS (4) POINTS UP WHAT I BELIEVE, IN THE END, WILL BE THE ROCK-BOTTOM FMG POSITION. I AM REASONABLY OPTIMISTIC THAT BY OUR LEANING ON JUSTICE AND, JUDGING BY CIROMA'S GENERALLY COOPERATIVE MOOD TODAY AND HIS APPARENT HOPE TO REACH SOME CONCLUSION RATHER SOON, WE MAY HAVE AN EARLY LIMITED OFFICIAL USE

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ANSWER FROM JUSTICE.
REINHARDT

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